

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

DOCKET NO. 2004-813

NORTHERN UTILITIES, INC.
Cast Iron Replacement Program

STIPULATION

Northern Utilities, Inc. – Maine (“Northern”) and the Office of Public Advocate (“OPA”) hereby agree and stipulate as follows:

I. PURPOSE

The purpose of this stipulation is to settle all issues raised in Docket No. 2004-813, to avoid a hearing on the issues raised in that docket, and to expedite the Public Utilities Commission’s (“Commission’s”) consideration and resolution of this proceeding. The provisions agreed to herein have been reached as a result of information initially filed in this proceeding, gathered through discovery, technical sessions conducted at the Commission and from discussions between the parties in this case.

II. PROCEDURAL HISTORY

On December 14, 2004, the Public Utilities Commission (“Commission”) instituted an investigation (“Order”) into the reasonable maintenance and replacement of the cast iron mains and services located in Northern Utilities, Inc.’s (“Northern’s”) underground distribution system in Maine. The proceeding was docketed Docket No. 2004-813. Both Northern and the Office of Public Advocate (“OPA”) (“the Parties”) are active participants in this proceeding.

Comment: See Notice of Investigation (NOI), Dec. 14, 2004 at 2.

In its Order opening investigation, the Commission sought Northern’s views on an adequate cast iron replacement program, whether it could evaluate the extent of graphitization in its system, and how a plan for accelerated replacement of cast iron facilities in 10 years might be achieved.

Northern responded with written comments and the prefiled testimony of Stephen Bryant, Northern’s President, and Danny Cote, Northern’s General Manager, supporting those comments. Exhibit Northern-1; Exhibit Northern-2. Northern’s comments and testimony posited that no accelerated program was necessary to protect or to promote public safety, but that if the Commission determined an accelerated replacement was required, a ten (10) year replacement would be the most cost-effective, administratively efficient, and operationally sound method.

Following the first technical conference, the OPA filed the testimony of Michael McGarry of Blueridge Consulting in support of its position that Northern’s

current "opportunistic" approach to cast iron replacement, coupled with its leak detection practices, is adequate to promote and protect public safety resulting from a serious incident involving the Company's low pressure cast iron main systems. Moreover, the OPA expressed concern that the incremental costs of an accelerated cast iron replacement program might not represent an optimal use of public resources devoted to public safety and therefore might not be acceptable to Northern's ratepayers.

Discovery was exchanged and an additional technical conference was held at the Commission, before the Commission Staff issued its Bench Analysis. The Bench Analysis was issued on March 2, 2005.

III. RECOMMENDED APPROVALS AND FINDINGS

Based on the record in this case, the parties to this Stipulation agree and recommend that the Commission conclude these proceedings by issuing an order that approves, accepts and adopts this Stipulation, including the following provisions:

1. Northern will replace, by the "insertion" method to the extent possible, using prudent, cost-effective operations techniques and competitive bidding, all cast iron mains and services in the cities of Lewiston and Auburn during the period April 1, 2005 to December 1, 2008 ("Lewiston/Auburn CI Replacement Project").

2. Northern and the OPA will return to the Commission and describe the reasons for any extension that may be needed to finalize and complete the Lewiston/Auburn CI Replacement Project.

3. Northern will continue with the "opportunistic program" in all municipalities during the period of the Lewiston/Auburn CI Replacement Project.

- a. The phrase "opportunistic program" means that Northern will replace cast iron and bare steel mains, bare steel services and associated appurtenances connected to these mains and services in conjunction with all state and municipal road improvement projects when there is an economic advantage to do so or when construction in proximity to Northern's facilities may jeopardize the integrity of the cast iron or bare steel facilities.

4. In addition to the "opportunistic program," Northern will replace, in any municipality, those cast iron segments that exceed the replacement threshold on the Cast Iron Main Assessment Model developed in consultation with the Commission's Gas Safety Director. Northern may seek a waiver from the Commission if it believes there is good cause for an extension of time to replace any segments that are ranked for replacement.

5. Northern may seek cost recovery for the incremental investment associated with the Lewiston/Auburn CI Replacement Project as follows:

- a. Northern will file a base rate case prior to the introduction of any step adjustment or other rate recovery mechanism;
- b. Northern's base rate request shall include a proposal for an alternative rate-making mechanism as provided in 35-A M.R.S.A. §4706. Northern and OPA will maintain the right to take any position regarding the desirability of the Commission's approval of that mechanism or any alternative rate-making mechanism offered by other parties.
- c. Northern's base rate filing will include all investments made under the Accelerated Replacement Program through the test year of the base rate case;
- d. Negotiations regarding the elements of an alternative rate-making mechanism (whether proposed by Northern, the OPA or any other party during the pendency of the base rate proceeding) will be conducted in good faith;
- e. In the context of an alternative rate-making mechanism under 35-A M.R.S.A. §4706, the OPA will not object to consideration of an annual rate adjustment designed to provide Northern an opportunity to earn a reasonable return on its investments and to recover related costs, such as depreciation and property taxes, to reflect incremental investments that result from accelerated replacement of cast-iron mains. This rate-making mechanism will also reflect any appropriate offsets, including, but not limited to, productivity offsets and operational expense savings that can be determined to result from the accelerated program.
- f. The OPA and Northern are free to take the position that other items should be considered as part of any annual cost recovery for incremental investments.

6. On January 1, 2008, Northern agrees to file its plan for cast iron replacement plan for Portland and Westbrook ("Portland CI Replacement Plan"), in which recommendations relative to financial, operational and engineering aspects of any proposed replacement will be presented. It is anticipated that the Portland CI Replacement plan will benefit from and utilize the techniques and experience gained from the Lewiston/Auburn CI Replacement Program. Northern, OPA, and any other party will be free to recommend continuation of Northern's current "opportunistic" replacement program in Portland and Westbrook, or some form of an accelerated replacement program.

IV. STIPULATIONS AS TO PROCEDURE

1. Staff Presentation of Stipulation. The parties to this Stipulation waive any rights they may have under 5 M.R.S.A. sec. 9062(4) and Section 742 of the Commission Rules of Practice and Procedure to the extent necessary to permit Staff to discuss this stipulation and the resolution of this matter with the Commissioners at the Commission's scheduled deliberations, without providing to the parties an Examiner's Report or the opportunity to file Exceptions.
2. Record. The record on which the parties enter into this Stipulation and on which the Commission may base its decision whether to accept and approve this Stipulation shall consist of (1) this Stipulation; (2) the prefiled testimony of Stephen H. Bryant; (3) the prefiled testimony of Danny Cote; (4) the pre-filed panel testimony of Blue Ridge Consulting on behalf of the OPA (5) the prefiled supplemental testimony of Michael J. McGarry, Sr; (6) Northern's response to written advisory data requests, formal and informal, issued by Staff; (7) Northern's response to oral data requests issued by Staff at the Technical Conferences; (8) Northern's responses to written data requests of the OPA; (9) Northern's responses to oral data requests issued by the OPA at the Technical Conferences; (10) OPA's responses to written advisory data requests, formal and informal, issued by Staff; (11) OPA's responses to oral data requests issued by Staff at Technical Conferences; (12) OPA's responses to written data requests issued by Northern; (13) the Bench Analysis provided by Staff; (14) the transcript of the Technical Conferences; and (15) any other material furnished by the Staff to the Commission, either orally or in writing, to assist the Commission in deciding whether to accept and approve this Stipulation.
3. Non-Precedential Effect. This Stipulation shall not be considered legal precedent, nor shall it preclude a party from making any contention or exercising any rights, including the right of appeal, in any future Commission investigation or proceeding or any other trial or action.
4. Stipulation as an Integrated Document/ Void if Rejected. This Stipulation represents the full agreement between the parties to the Stipulation and rejection of any part of this Stipulation constitutes a rejection of the whole. If not accepted by the Commission according

to its terms, this Stipulation shall be void and of no further force and effect.

Respectfully submitted this ____ day of March, 2005.

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